IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2261 OF 2005

Prakash Sharma] .. Petitioner

Versus

1. The Union of India & Ors.] .. Respondents

Mr.A.P. Singh for the petitioner.

Mr.Desai, Ld. Addl. Solicitor General with Mr.D.N. Salvi, PP, for the respondent Nos.1 to 8.

Mr.N.N. Amin for respondent No.9.

Mrs.Poornima Kantharia, APP, for the respondent- State.

CORAM: S.S. PARKAR &
ANOOP V. MOHTA, JJ.

DATED: 29TH SEPTEMBER, 2005

P.C. :

1. This Petition is filed, inter alia, challenging the order of the Commanding Officer, INS Angre - respondent No.5 in the summary trial of the petitioner, whereby he has been convicted and sentenced. On behalf of the respondents, Reply Affidavit has been filed dated 9th September, 2005, of Commodore Paras Nath, Chief Staff Officer (Personnel and Administration)

taking a preliminary objection that statutory Appeal has been provided under Section 163 of the Navy Act.

2. In view of the above provision, we are not inclined to entertain this Petition ofcourse which is filed on various grounds. It is always open to the petitioner to challenge the adverse order of the Appellate Authority before this Court in a Writ Petition. We, therefore, reject this Petition on the ground that the remedy of Appeal is not exhausted by the petitioner. We keep all the points raised in this Petition open.

[S.S. PARKAR, J.]

[ANOOP V. MOHTA, J.]

[srpasha@hc]